

Introduced by Senator Margett

February 22, 2005

An act to amend Section 21165 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 648, as amended, Margett. ~~CEPA~~ *CEQA*: lead agencies: determinations.

The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA authorizes any public agency, or in certain cases, the project applicant, in the event that a dispute arises with respect to a project to be carried out or approved by two or more public agencies, as to which is the lead agency, to submit the question to the Office of Planning and Research, and the office is required to designate, within 21 days of receiving the request, the lead agency, giving due consideration to the capacity of the agency to adequately fulfill the requirements of the act.

~~This bill would specify that a dispute exists when any of those public agencies claims that it either has or does not have the obligation to prepare an environmental document.~~

This bill would provide that, for purposes of those provisions requiring the designation by the office of a lead agency, a "dispute" means a contested, active difference of opinion between 2 or more public agencies as to which of those agencies shall prepare any

necessary environmental document, and that a dispute exists where such public agency claims that it either has or does not have the obligation to prepare an environmental document. The bill would prohibit the office from designating a lead agency in the absence of such a dispute.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21165 of the Public Resources Code is
2 amended to read:

3 21165. (a) When a project is to be carried out or approved by
4 two or more public agencies, the determination of whether the
5 project may have a significant effect on the environment shall be
6 made by the lead agency, and that agency shall prepare, or cause
7 to be prepared by contract, the environmental impact report for
8 the project, if a report is required by this division. In the event
9 that a dispute arises as to which is the lead agency, any of the
10 disputing public agencies, or in the case of a project described in
11 subdivision (c) of Section 21065 the applicant for such project,
12 may submit the question to the Office of Planning and Research,
13 and the Office of Planning and Research shall designate, within
14 21 days of receiving the request, the lead agency, giving due
15 consideration to the capacity of that agency to adequately fulfill
16 the requirements of this division, and in accordance with the
17 regulations set forth in Title 14 (commencing with Section 14100
18 16000) of the California Code of Regulations. ~~A dispute exists~~
19 ~~when any of the public agencies claims that it either has or does~~
20 ~~not have the obligation to prepare an environmental document.~~

21 (b) *For the purposes of this section, a “dispute” means a*
22 *contested, active difference of opinion between two or more*
23 *public agencies as to which of those agencies shall prepare any*
24 *necessary environmental document. A dispute exists where each*
25 *such public agency claims that it either has or does not have the*
26 *obligation to prepare such an environmental document. The*
27 *Office of Planning and Research shall not designate a lead*
28 *agency in the absence of such a dispute.*

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